

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**IN RE:** )  
 )  
**JERRY AND TERESA WRIGHT** )      **CASE NO. 17-14856 JDL**  
 )      **CHAPTER 13**  
**DEBTOR**      )

**OBJECTION TO NOTICE OF MORTGAGE PAYMENT CHANGE DATED OCTOBER  
10, 2018 (AS ATTACHMENT TO PROOF OF CLAIM NO. 18), BRIEF IN SUPPORT,  
NOTICE OF RIGHT TO OBJECT, AND NOTICE OF HEARING**

COME NOW Debtors and object to the Notice of Mortgage Payment Change filed in this matter October 10, 2018, by Creditor Secretary of Veterans Affairs. In support, Debtors state as follows:

1. Debtors filed the instant case November 30, 2017. At the time, Debtors were in arrears on mortgage payments and proposed to cure their default through their Chapter 13 plan.
2. On or about April 4, 2018, Creditor filed a claim in this case (Claim No. 18-1) in which it alleged the total arrearage on Debtor's account to be \$39,439.49. Of that amount, \$9,112.03 was attributed to "Escrow deficiency for funds advanced."
3. On October 10, 2018, Creditor filed a Notice of Mortgage Payment Change as an attachment to Claim No. 18, in which it claimed that Debtors' monthly mortgage payment had increased from \$797.12 to \$1,621.65. The increase in payment was due to an increase in the escrow payment, from \$64.08 to \$888.61.
4. It appears the alleged "escrow shortage" is attributable to Creditor's attempt to recover pre-petition escrow shortages that are already included in Creditor's arrearage claim. Payment of the increased escrow payment in addition to the arrearage claim would result in creditor being paid twice for the escrow shortage.

5. As a result, Creditor's Notice of Mortgage Payment Change should be stricken. Any future Notice of Mortgage Payment Change filed by creditor should include escrow only based on Debtor's post-petition escrow obligations.

WHEREFORE, PREMISES CONSIDERED, Debtors respectfully request that this Court order that the Notice of Mortgage Payment Change filed by Creditor Secretary of Veterans Affairs on October 10, 2018, be stricken. Debtors further request any other relief to which they may be entitled at equity or law.

Respectfully submitted:

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ATTORNEY FOR DEBTOR(S)

### **NOTICE OF OPPORTUNITY FOR HEARING**

**Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document.** If you do not want to the Court to grant the relief requested, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Ave., Oklahoma City, OK 73102, no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

**The 14 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f)**

### **NOTICE OF HEARING**

A hearing on Debtors' Objection to Notice of Mortgage Payment Change shall be held on January 15, 2018, at 8:30 a.m. The location shall be the courtroom of the Honorable Janice D. Loyd, 2nd Floor Courtroom, 215 Dean A. McGee Ave., Oklahoma City, Oklahoma 73102.

**CERTIFICATE OF SERVICE**

Undersigned certifies that on 11-26-18, the foregoing document was served, via United States Mail, 1<sup>st</sup> class postage pre-paid, certified and return receipt requested, and properly addressed to the following:

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s/ MIKE ROSE  
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